

Testimony of

William Green

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I. INTRODUCTION AND OVERVIEW

Mr. Chairman, Members of the Committee, I appreciate the opportunity to appear before you today to present Chiron Corporation's perspective on the growing movement of animal terrorism in this country. I am William Green, Senior Vice President and General Counsel of Chiron Corporation. Chiron is a biotechnology company headquartered in Emeryville, California. Since it was founded in 1981, Chiron has sought to improve human health by developing new and innovative products to prevent and treat diseases such as cancer, HIV, influenza, cystic fibrosis, meningitis and hepatitis. We have manufacturing or management facilities in several states, including California, Washington, Pennsylvania, and New Jersey, and also in international locations, principally in the United Kingdom, Germany and Italy.

We discover and develop new approaches to human health. Sound science and the applicable laws and regulations required in the U.S. and in every developed country in the world mandate testing in humans and on animal models before drugs can be approved to justify and validate our efforts to develop these life-saving products. Our own animal care and use program in the United States is accredited by the American Association for the Accreditation of Laboratory Animal Care (AAALAC) and registered with the United States Department of Agriculture. We also maintain an Assurance Statement with the Office of Laboratory Animal Welfare, Department of Health and Human Services. Additional information regarding the regulation of Chiron's animal research is provided in Addendum I. We draw the Committee's attention to this information as it is important to understanding the crux of the issue we bring before you today on two levels--first, we are victims of a sustained campaign of intimidation, harassment and extortion that we have endured at the hands of animal rights extremists; and second, that campaign is cloaked in a more subtle and more intimidating mantle of assault on an entity with which we have only remote contact. Over the last 12 months, Chiron Corporation and its employees have been the target of a persistent and sometimes violent campaign by animal rights extremists orchestrated, we believe, by SHAC USA. The campaign has cost us significant time and resources to defend ourselves; resources that we believe would have been better invested in our research efforts. We present an overview of our experience to this Committee in the belief that it establishes a compelling basis for the Committee to amend the Criminal Code. Simply put, if human health care research is to continue, society must be able to effectively control and prevent the kinds of conduct now being directed against such research. As the law presently stands, tools are insufficient. As a consequence, Chiron and its employees have paid, and so have many other research entities. Ultimately, the public pays, in increased costs or worse, diminished health care. We believe that the Animal Enterprise Act must be updated to ensure that individuals and companies are protected and drug development is fostered.

I would like to address four issues in my statement today.

- ? Animal terrorism activities directed toward Chiron Corporation by Stop Huntingdon Animal Cruelty (aka SHAC).
- ? Details of terrorist activities targeting specific employees of Chiron Corporation.
- ? The threat of ongoing animal terrorism that we believe exists for Chiron Corporation.
- ? Chiron's thoughts and recommendations on gaps in the Criminal Code as they relate to these animal terrorist activities.

II. OVERVIEW OF CHIRON

Founded in 1981, Chiron is a pioneer in the biotech industry. As a result of its research programs, Chiron has grown to \$1.8 billion in revenue in 2003. We market more than 50 products worldwide to detect, prevent and treat diseases.

Chiron is a leader in the fight to eliminate polio from the face of the earth. We are a major producer of vaccines to UNICEF and public institutions. We have contributed 30 million polio vaccine doses to the Polio Global Eradication Initiative and look forward to a time when all children can live without threat from this crippling disease. The polio

vaccine is possible because of animal research. Absent that research, the vaccine would have been impossible to develop.

Among Chiron's many contributions to medicine was the discovery of the hepatitis C virus. Chiron scientists labored for years before identifying and sequencing the virus. That accomplishment led directly to tests that have dramatically improved the safety of the blood supply. An estimated 165 hepatitis C infections from blood transfusions are prevented daily in the U.S. because of Chiron's achievement.

The lives saved by those tests and the polio cases prevented by our vaccines are just two examples of Chiron's powerful contribution to global public health. Those contributions are possible in part because of animal research. The same can be said of every pharmaceutical treatment on the market. Without animal research, we would never have seen the tremendous advances in human health that we have enjoyed over the past decades. If animal rights extremists succeed in their efforts, it will have a devastating effect on human health.

III. SHAC BACKGROUND

SHAC is an acronym for Stop Huntington Animal Cruelty. SHAC's stated immediate intention is to put a specific research company, Huntingdon Life Sciences ("HLS"), out of business because SHAC believes that HLS' work is cruel to animals. (See Addendum II). SHAC runs an extremist campaign of intimidation and harassment directed at HLS, but also at entities doing business with HLS (tertiary targets) in an effort to isolate and ultimately destroy HLS. SHAC appears to believe that it is morally wrong for human beings to test drugs on animals, regardless of the benefits to humans. Its primary long-term goal is the complete elimination of animal testing in all contexts, without regard to the negative impact this would have on drug development and improvements in medical care.

Its campaign against companies like Chiron Corporation established a new tactic for animal extremists intent on hindering or halting medical research and innovation. Rather than acting directly against a research facility or institution, which is an "entity" that the Congress of the United States has protected through the Animal Enterprise Protection Act of 1992, SHAC USA extremists now direct many of their harassing, threatening and menacing activities toward the people that work in our company, as well as their family members, in the communities where they live: at their homes, at their schools, and in the places where they engage in volunteer or leisure activities. Chiron has no current contracts with HLS, and no plans to use HLS in the future. Yet, SHAC's web page boldly proclaims that Chiron is a "Target" of its "campaign" to shut HLS down. As a direct result, the company and its employees have been subjected to a relentless stream of terrorist activities. SHAC tactics are expressly aimed at achieving this goal.

IV. CHIRON'S EXPERIENCE AS A SHAC TARGETED COMPANY

A. Activities Targeting Chiron Employees

Chiron became a target of SHAC USA approximately a year ago. In April 2003, the SHAC USA website published a "diary" written by Michelle Rokke, an animal rights activist, who worked undercover at HLS in the 1990s. Rokke's diary accused HLS of abusing laboratory animals in connection with research it conducted in 1997 on behalf of Chiron. The SHAC USA website created a section devoted to Chiron that prominently states: "Chiron Kills Puppies At Huntingdon Life Sciences."

The SHAC USA website is the center of its campaign. The site issues calls to action, coordinates the attacks, targets our individual employees and reports, often erroneously, the consequence of extremist's activities. The website has published personal information of Chiron employees and encouraged extremists to harass and intimidate them. After various incidents occur, the SHAC USA website publishes mocking reports of the incidents, often ending with warnings that the harassment will continue until the employee quits or Chiron severs all ties with HLS. The website repeatedly drives home its message by warning employees that "We know where you live!" The SHAC USA website also makes available tactics and resources for the extremists to continue their activities against Chiron.

Less than a month after Chiron was first singled out on the SHAC USA website, overt acts of harassment began against Chiron and its employees. These attacks have been ongoing and unrelenting. Our employees have been targeted in California, New Jersey, Washington, the United Kingdom and the Netherlands. The tactics are numerous, but all of them are meant to harass and intimidate.

Extremists have made harassing phone calls and sent harassing emails to employees at work and at their homes. The extremists have set up fake Internet advertisements (such as soliciting sexual services) with employees' phone numbers to encourage strangers to harass the employees. Several employees have had their financial information misappropriated, resulting in fraudulent credit card charges. One employee received a death threat. SHAC USA also sent a letter to a scientific research conference threatening acts of violence if a Chiron employee was permitted to speak at the conference. Extremists also threatened to disrupt a conference for high school girls in Washington if a Chiron employee was allowed to participate.

SHAC USA's most chilling tactic is the so-called "home visit." Groups of extremists assemble at a targeted

employee's house, often in the middle of the night. The extremists are often clad in black clothes and ski masks to increase the intimidation. They shout obscenities at employees through bullhorns, pound on doors and windows, and scatter leaflets around the neighborhood. These home visits are often accompanied by acts of vandalism and trespass. The groups of extremists repeated these visits to the same employees over a period of months.

On the night of May 12, 2003, Chiron employees around the San Francisco Bay Area received "home visits" from groups of extremists. SHAC USA published on its website and in its newsletters the names of targeted Chiron employees, their home addresses, phone numbers, email addresses and names of spouses and children. The home visits continued against Bay Area employees on a weekly basis through August 2003. These incidents were regularly celebrated on the SHAC USA website.

Beginning in August 2003, SHAC USA also began targeting Chiron's office in Seattle, Washington. Groups of extremists showed up at the Seattle office, harassing and threatening employees as they entered and left work and home visits to Chiron employees in Seattle started. Later in 2003 and continuing into 2004, SHAC USA has repeatedly attacked a Chiron employee in New Jersey.

. Specific Activities Undertaken by SHAC USA Targeting Chiron Employees

As Chiron's General Counsel, I also have received harassing phone calls and "home visits," as well as harassment of my family. Let me describe to you in detail how some other Chiron's employees, representing a range of levels within the company, have been victimized by SHAC USA's activities. In order to protect the personal safety of these individuals, we are not identifying them by name.

Employee A: This employee has been subject to repeated incidents of harassment and intimidation. Groups of extremists have assembled at her home on at least seven occasions, including in the middle of the night. The extremists have shouted obscenities at her in front of her children and other neighborhood children. They have blocked her driveway, preventing her family from returning home. They shouted at her husband and children as they entered their house. SHAC USA extremists have scrawled slogans on her driveway and littered the neighborhood with leaflets accusing her of being a "puppy killer." On one occasion, extremists began taking photographs of her through her dining room window as she talked on the telephone.

This employee and her family have received obscene and harassing phone calls. They have been subscribed to over \$3,000 in fraudulent magazine subscriptions. Her husband's work email has been repeatedly used to enroll him in catalogue distribution lists and to request company prospectuses.

Extremists have also attempted to disrupt a sports group to which this employee belongs. They assembled at one outing of the group, shouting at members through bullhorns and encouraging them to kick this employee out of the group. The group's email group began receiving spam emails from SHAC USA denouncing the employee, and personal information on group members was published on SHAC USA's website. At least one member of the sports group began receiving late night, harassing phone calls.

This employee and her family have had to change the way they live. They have retained personal security. They limit the amount of time they spend away from home. The family's children have been traumatized. Their younger child now has trouble sleeping and is very nervous when his parents aren't home.

Employee B: This employee has also been subject to repeated harassment. Groups of extremists have assembled at her home in the middle of the night on numerous occasions, shouting through bullhorns and setting off screeching personal alarms to wake her and her family from their sleep. They have littered her neighborhood with leaflets containing her picture and personal information. On one occasion, the extremists smeared animal feces on the front and rear entrances to her house; threw mangled stuffed animals on her yard; and spray-painted slogans such as "puppy killer" and "drop HLS" on her front walkway. On another occasion, these same slogans were etched onto the windows of her car with permanent etching fluid. This employee has also received harassing phone calls at home and had her phone number used to place fake Internet advertisements. Employee B has never been involved in animal experiments.

Employee C: This employee has never been involved in animal testing, but still has received numerous "home visits." On May 12, 2003, at the beginning of SHAC USA's campaign against Chiron, extremists dumped a substance subsequently identified as butyric acid on his front steps, leaving an overwhelming stench resembling vomit. The incident was particularly threatening as the substance was originally unknown to those responding to the attack and presumed to be toxic. As a result, the clean up was hampered and cost increased. It ultimately cost thousands of dollars to remove the odor, which still lingers at the property. This employee has received numerous harassing and obscene phone calls, and his home phone number was used to request sexual services on the Internet. SHAC USA's website published the names and email addresses this employee's spouse and children, encouraging extremists to harass them as well. They began receiving harassing emails. This employee has retained personal security.

Employee D: This employee has been subject to repeated late-night home visits by groups of extremists. The extremists screamed through bullhorns, pounded on her front door, rang her doorbell, and shouted obscenities. The

employee's family, including three young children, were awakened and scared. The employee has also received numerous harassing phone calls and messages at home, had her address posted on the Internet in false advertisements, and had her picture and personal information placed on leaflets accusing her of murdering animals. This employee has also been forced to retain personal security. Again, Employee D is not involved with any animal testing for Chiron.

Employee E: This employee became a target at the beginning of this year after SHAC USA published his picture and home information on its website. Groups of extremists have visited his home on at least four occasions. Since this employee travels extensively for his work, these home visits often occur when his wife and children are home alone. On one occasion, they drove up and down the employee's street in a truck with a giant television screen on the rear of the vehicle, displaying extremely graphic images of animals being mutilated. Other extremists shouted at the employee through bullhorns and scattered leaflets with his personal information around the neighborhood. The SHAC USA website reported this incident and warned: "2004 is going to be one hell of a long year for [the employee], now that we know where he is. If you can't join us on future demos - please be sure to get in touch with [the employee] on your own." On other occasions, the extremists have assembled in the early morning hours shouting obscenities and threats. For instance, one individual made reference to the Chiron bombing and implied it could happen at this employee's home. Another individual shouted, "Security won't protect you during the day [employee's name]. Not everything happens at night." On another occasion, after a neighbor complained to the protestors that children were sleeping, a protestor exposed his genitals and told the neighbor to perform a sexual act on him. As a result of these actions, the employee has been forced to retain security to protect his home and family. Like other SHAC USA targets, Employee E has never been involved in animal testing.

Employee F: This employee has had his personal checking account number posted on SHAC USA's website. This forced him to cancel the checking account, close a related credit card account, review all transactions made on his checking account, review his credit history for acts of fraud, and make good all outstanding checks. The SHAC USA website also threatened to send animal feces in the mail and warned that he would be harassed in the coming year. In January 2004, SHAC USA extremists assembled at his house shouting through bullhorns. The employee was forced to flee his home with his autistic son, who would have been severely traumatized by the loud noises.

B. August 2003 Bombing At Chiron

Two pipe bombs exploded on the company's campus on August 28, 2003. The blast shattered the glass doors and windows in the entrance and foyer. Among the debris, police officers found pieces of a kitchen timer and other plastic components. Within five minutes, a second explosive device was found but before the bomb squad arrived, the second device also detonated. It was extremely fortunate that no one was injured. Timing a second explosive device to detonate shortly after the first would seem to be a technique calculated to attack security personnel and police officers responding to the first explosion.

The following day, SHAC USA's website posted a link to a statement issued by a previously unknown group calling itself "The Revolutionary Cells." That statement took credit for the bombing at Chiron and made death threats against its employees: "This is the endgame for the animal killers and if you choose to stand with them you will be dealt with accordingly. There will be no quarter given, no more half measures taken. You might be able to protect your buildings, but can you protect the homes of every employee?" SHAC USA also published its own press release regarding the bombings stating that the bombings were "part of a global assault on the customers of HLS." SHAC USA's president, Kevin Kjoonaas, was quoted as saying that the bombings "against Chiron mark a drastic escalation in severity.... If I were Chiron, I would be very worried."

SHAC USA sought to compound the terror effects of the bombing to intimidate Chiron and its employees. On August 31, 2003, SHAC USA flooded Chiron email accounts with the suggestion that thousands of emails would "take their minds off last Thursday's firework show." In a demonstration against Chiron in New York City, persons affiliated with SHAC USA carried signs stating, "Invest in Chiron & Make a Bang for Your Buck!" and "HLS and Chiron Are Always a Blast!" Extremists in Seattle left a note at Chiron's offices that read: "Chiron is going out with a bang." The SHAC USA newsletter crowed that "Chiron is starting to shake like a California quake" and that "[t]he campaign to close Huntingdon is being fought with 'exploding' new tactics."

About a month after the Chiron bombing, a second company in the San Francisco Bay Area, Shaklee Corporation - a subsidiary of another SHAC USA target, Yamanouchi Consumer, Inc. - was bombed. The FBI has said that the device used in the Shaklee bombing was nearly identical to the devices used in the Chiron bombing. After the blast at Shaklee, SHAC USA again posted a link to a statement issued by "The Revolutionary Cells" making death threats against Chiron employees. The statement singled out Chiron Chairman Seán Lance and contained a direct threat of future violence against him and Chiron's employees: "Hey Sean Lance, and the rest of the Chiron team, how are you sleeping? You never know when your house, your car even, might go boom. Who knows, that new car in the parking lot may be packed with explosives. Or maybe it will be a shot in the dark."

Although SHAC USA has carefully avoided taking responsibility for the bombings, there is reason to believe that

SHAC USA and Kevin Kjonaas closely orchestrate the terrorists who claim to be The Revolutionary Cells. On October 5, 2003, a federal arrest warrant was issued in the Northern District of California for Daniel Andreas San Diego. The FBI believes that Mr. San Diego was involved in the Chiron and Shaklee bombings and has charged him with maliciously damaging and destroying property by means of explosives.

C. Other SHAC Tactics Directed Against Chiron Corporation

Beyond the attacks on our employees and the bombing of our headquarters, Chiron has been subjected to repeated attempts to disrupt our business, steal confidential information and prevent us from carrying out our mission to improve health globally. One tactic employed by extremists on multiple occasions has been to flood the company with mass faxes and emails. SHAC USA sponsors so-called "Electronic Civil Disobedience" in which extremists attempt to knock out a company's internet server by targeting it with repeated spam emails. These efforts include: sending spam emails to employees at their work email addresses. Over 4,000 emails, sent on numerous occasions and often generated by automatic computer programs threatened to overload our computer systems. These emails were sent using the techniques of hackers.

The mass emails and faxes are just one tactic employed by extremists to try to shut down business. There are others, just as destructive which have also been directed against Chiron, including:

? "Phone blockades," in which extremists make numerous repeat phone calls to a targeted company to tie up its phone lines.

? Instructions on the SHAC USA website on how to infiltrate targeted companies, including Chiron, by fraudulently posing as job applicants. The goal is to infiltrate a company to obtain confidential information.

? Fake phone calls from individuals designed to trick employees into revealing confidential information.

? "Black faxes" of over 1, 000 facsimile pages designed to use up a fax machine's ink, potentially resulting in the loss of critical business communications.

V. SHAC USA'S THREAT OF ONGOING TERRORISM AGAINST CHIRON

SHAC USA has made it clear that the harassment and intimidation against the Company and its employees will not stop until Chiron disavows any intention ever to use HLS. Thus, our employees live with SHAC USA's ongoing threats hanging over their heads. After the incidents of harassment occur against Chiron employees, the SHAC USA website regularly reports on the actions. From April 2003 to February 2004, Chiron employees have been the target of ongoing threats, examples of which are included below.

? "Until Chiron stops doing business with Huntingdon Life Sciences we will be a constant voice for the 500 animals who die inside their walls everyday. We know who you are, we know what you look like, and best of all we know where you live!"

? "[Names of employee and spouse], it will only get worse from here. With every day that goes by and every animal that is tortured and murdered inside HLS, our anger and vengeance grows. We will not stop until the walls of HLS are turned to rubble... We will not stop until HLS is shut down and we will take you with them as long as you are part of the suffering."

? "Prepare yourself Chiron because this is only the beginning. As long as you continue to act as a customer for HLS you will be exposed in your neighborhoods and communities. We know how you make your money, and we know where you live! Drop HLS!"

? "It's a simple equation. Stop doing business with Huntingdon Life Sciences. Until you do we will be watching you. We will invite ourselves over to your homes and into your private lives. Do you really want the spotlight on you Chiron?"

? "Quit doing business with Huntingdon Life Sciences Chiron. You're not getting any sleep and your neighbors are growing weary of your presence. Your personal information is all over your neighborhood. You have to be wondering what's next... well guess what? We're just getting warmed up!"

? "[Name of employee], if you are interested in sleeping through the night, stop supporting HLS (and maybe those bags under your eyes will go away too)."

? "Don't worry [name of employee], there will be more and more visits to come. Quit your job!"

? "If only she would stop her gross killing spree, and then wouldn't have to worry about us being there every step she takes..."

? "We hope you don't think we are going away Chiron. Until you sever all ties with HLS, we will be a permanent part of your life. Until Next Time!"

"We're just getting started Chiron!"

VI. CHIRON'S RESPONSE TO SHAC: PRACTICAL AND LEGAL

Practical Measures Taken

Faced with this history of relentless harassment and the explicit threat of further targeting, Chiron has been forced to

seek protection from the courts and to engage in "self-help" measures to minimize the risk to its employees and its business. The actions of SHAC USA have come at significant expense to Chiron. We estimate \$2.5 million in direct costs relating to SHAC USA's campaign of harassment of intimidation since inception in April 2003. The attacks will probably result in the most permanent disruption of our campus in Emeryville and the openness of which is a hallmark of our collegial culture. We have had to undertake efforts to close, gate and secure our physical plants, which will alter the nature of our campus permanently.

In addition, we have had to undertake numerous other measures. These include:

- ? Providing security personnel and security hardware such as closed circuit television, video recording equipment, burglar alarms and security site surveys at the homes of victimized employees for the protection of the employee and their family.

- ? Repairing damage caused by vandalism to the employee's homes and property.

- ? Increasing security measures on campus, fencing, closed circuit television, alarm systems and additional security personnel.

- ? Retaining executive protective agencies to accompany employees to professional forums.

- ? Upgraded firewalls for Chiron's information system.

A. Legal Measures

1. United Kingdom

Chiron filed suit against SHAC based on the unlawful acts perpetrated against it in the United Kingdom. In February 2004, the Queen's Bench Division of Britain's High Court of Justice issued a restraining order against SHAC U.K. prohibiting its extremists from demonstrating within 100 yards of the house of any Chiron employee or otherwise harassing or threatening any Chiron employee.

SHAC U.K. responded to the restraining order by attacking every related person. Within days of the order, an Internet web page was set up that listed the home telephone numbers and home addresses of Chiron's lawyers. The web page also listed the name, home telephone number and home address of the British judge who issued the restraining order. It also included the names, home telephone numbers and home addresses of the judge's mother and mother-in-law. Scotland Yard's Special Branch, which deals with espionage and terrorism, is investigating the matter.

2. United States

Chiron has filed suit against SHAC USA in three states - California, New Jersey, and Washington - seeking to enjoin its extremists from continuing their illegal activities against Chiron and its employees. Chiron has obtained a preliminary injunction in New Jersey prohibiting SHAC USA or anyone acting in concert with SHAC USA from harassing or threatening Chiron employees, vandalizing or trespassing on their property, picketing within 150 feet of the home of any Chiron employee during evening hours, or publishing personal information of Chiron employees on SHAC USA's website. Chiron continues to seek injunctions in both California and Washington, and litigation in all three states is ongoing.

VII. ANIMAL ENTERPRISE PROTECTION ACT

A. The Statute

1. The 1992 Act

The Animal Enterprise Protection Act ("the Act") was enacted in 1992 to protect against physical disruptions of businesses, educational institutions and events by animal rights extremists. The Act made it a federal crime to cause "physical disruption to the functioning of an animal enterprise by intentionally stealing, damaging, or causing the loss of any property (including animals or records) used by the animal enterprise" causing economic damage exceeding \$10,000.

Federal jurisdiction is satisfied by the element of the offense that requires travel in interstate or foreign commerce or use of the mail or any facility in interstate or foreign commerce. An "animal enterprise" is defined as a commercial or academic enterprise that uses animals for food or fiber production, agriculture, research, or testing; a zoo, aquarium, circus, rodeo, or lawful competitive animal event; or any fair or similar event intended to advance agricultural arts and sciences.

As originally enacted, the Act provided for a maximum penalty of one year in prison. The Act further provided for a maximum penalty of ten years if the defendant caused great bodily injury and life imprisonment if the defendant caused death.

The Act was amended and strengthened in 2002.

B. Deficiencies In The Animal Enterprise Protection Act

The Animal Enterprise Protection Act does not reach the kind of terrorist tactics that animal rights extremists are

currently using, nor the type of damages inflicted. In particular, the Act does not prohibit terrorist acts against companies and employees of companies that are not themselves animal enterprises. As set forth above, a strategy increasingly employed by animal rights extremists, such as SHAC, is to attempt to cause economic harm to animal enterprises by terrorizing companies and people that do business with them. The extremists threaten and cause physical, economic and emotional harm to these third-party companies and their employees in an effort to force them to quit doing business with a targeted animal enterprise. For example, SHAC has disrupted and terrorized an insurer, lender, accountant and bank with direct or indirect ties to HLS - not to mention past and present customers of HLS. The statute was drafted to address the tactics used by animal rights extremists in 1992, which involved physical disruption and damage to animal enterprises themselves. The House Judiciary Committee noted in its report on the Act:

The Committee hearing record on this issue demonstrates that current Federal laws are not adequately discouraging acts of violence against biomedical researchers, farmers and ranchers, meat processors, livestock auctions, and others who handle animals. . . . [I]ncidents of arson, break-ins, theft, threats and vandalism have been perpetrated against the animal agricultural sector nationwide.

H. Rep. No. 102-498(I), (1992). A Department of Justice study similarly identified the problem as physical attacks on animal enterprises:

[S]ince the early 1980's, a broad range of enterprises, in both public and private sectors, that use or market animals or animal derived products in their commercial or professional operations have been targeted by radical elements within the animal rights movement with acts of disruption, vandalism, and in many cases physical destruction. United States Department of Justice Report to Congress on Animal Terrorism at 1 (1993).

As discussed below, the changed tactics adopted by extremist animal rights extremists render the current statute ineffective.

1. Physical Disruption Versus Economic Disruption

Animal rights extremists, such as SHAC, have shifted tactics from physical disruption to economic disruption. The extremists cause economic disruption by harassing and terrorizing animal enterprise employees and those who do business with the animal enterprise. These acts of terrorism often take place at sites other than the animal enterprise and, therefore are not intended to cause direct physical disruption of the animal enterprise itself. The existing Animal Enterprise Protection Act does not reach such conduct because there is no intent to physically disrupt an animal enterprise. Most of the acts of terrorism by SHAC and its supporters described above - particularly those committed against employees at their homes - would not violate the Act because they were not intended to cause physical disruption of an animal enterprise and did not damage property used by an animal enterprise.

2. Property Damage

The Act's focus on property damage also needs to be changed to adapt to the current tactics employed by animal rights terrorists. An element of the offense currently is that the defendant damages or causes the loss of property used by an animal enterprise. While animal rights extremists often cause property damage, they also rely on threats and other types of harassment to intimidate and terrorize employees. The statute should be expanded to cover these sorts of tactics as well.

2. Animal Enterprise Requirement

The Act is also limited because it applies only to enterprises that actually work with animals. SHAC's strategy is to terrorize those who do business with HLS - many of whom do not actually work with animals themselves. The existing statute covers Chiron because it happens to do some animal testing itself, but the statute does not protect other customers of HLS, that are not animal enterprises themselves. Nor, for example, would the statute cover the banker or insurer of HLS.

3. Definition of Animal Enterprise

Another deficiency in the statute is that its definition of "animal enterprise" is too restrictive. An "animal enterprise" is defined as a commercial or academic enterprise that uses animals for food or fiber production, agriculture, research, or testing; a zoo, aquarium, circus, rodeo, or lawful competitive animal event; or any fair or similar event intended to advance agricultural arts and sciences. The Act does not expressly apply to an enterprise that uses animals for education or for other medical science programs. Animal rights extremist have targeted both educational institutions and biomedical events for disruption. The Act should be expanded to cover those activities.

4. Penalties

Finally, the current penalties under the Act are not stringent enough. For example, a defendant who causes no more

than \$10,000 in property damage faces a maximum sentence of six months incarceration and a defendant who causes any amount of damage over \$10,000 faces a maximum of only three years in jail. The penalties for these offenses should be increased and more stringent penalties for acts that cause a large amount of damage should be enacted. Under the current statute, a defendant who causes millions of dollars of damage faces no stiffer penalties than one who causes \$10,001 of damage.

C. Proposed Improvements To The Animal Enterprise Protection Act

There are a number of ways the Act should be amended to deal more effectively with the tactics currently employed by animal terrorists. These modifications would bring within the scope of the statute actions designed to cause economic damage to animal enterprises by targeting companies and employees of companies that do business with animal enterprises.

1. Economic Disruption

As set forth in detail above, the current strategy of many animal rights terrorists is to cause economic harm to animal enterprises, not just property loss or damage. The problems with the current statute related to the requirement that there must be an intent to cause physical disruption can be remedied by amending the statute to make it a violation to intend to cause physical or economic disruption. "Economic disruption" would include losses and increased costs. The statute should be clear, however, that it would not apply to actions that are protected by the First Amendment.

2. Non-Animal Enterprises

The scope of the statute should be expanded to cover animal extremists' current tactic of targeting companies or individuals that do business or associate with animal enterprise, but which are not animal enterprises. As discussed above, some of the most threatening and abusive conduct has occurred at employees' homes. Thus, the statute should not be limited to direct actions against animal enterprises. It should be expanded to cover illegal actions taken against any person or entity because it does business with or associates with an animal enterprise.

3. Threats And Harassment

The current statute is limited to harm caused by property loss or damage. The arsenal employed by animal rights terrorists, however, goes well beyond mere property damage. As set forth in detail above, these extremists also use threats and harassment to accomplish their goal of harming animal enterprises and their employees. The acts prohibited by the statute should also include threats, persistent and harassing communications, intimidation or coercion in furtherance of a plan to cause economic or physical disruption.

4. Definition Of Animal Enterprise

The definition of animal enterprise should be expanded to include the use of animals for education. It also should be broadened to include events for the purpose of advancing biomedical sciences.

5. Penalties

The penalties for violating the statute should be strengthened. The maximum penalty for economic or physical disruption should be one year up to \$10,000, five years for over \$10,000, and ten years for over \$100,000.

The amount of loss or damage referred to in setting the penalty should be the damage done to the targeted person or entity, not the animal enterprise. Such a cost to the animal enterprise may be difficult or impossible to prove. For example, if an animal enterprise's insurer is subject to terrorism because of the affiliation with the enterprise, but continues to insure the enterprise, there would be no crime under the existing statute, even though the insurer incurred substantial costs as a direct result of the terrorism. As another example, Chiron does not presently do business with HLS. Yet, SHAC USA is terrorizing Chiron's employees to coerce Chiron into promising to never do business with HLS again in the future. Under such circumstances, it would be very difficult to prove what if any damage HLS has suffered. The costs to Chiron, on the other hand, have been great and are quantifiable. Thus, the measure of economic damage should be to both the animal enterprise and the targets of the illegal activity.

D. Private Right Of Action

Another major deficiency in the Act is the absence of an express private right of action for injured parties. Because plaintiffs cannot bring civil claims against those who violate the Act, the statute has lain dormant for most of its

existence. Since its passage in 1992, there appears to have been only a single prosecution under the Act. In August 2000, Justin Samuel pleaded guilty to two misdemeanor counts under the Act in the Western District of Wisconsin and was sentenced to two years in prison.

It is troubling that the Act has been largely ignored despite the dramatic rise in animal rights related terrorism in recent years. The absence of prosecutions suggests that targeting violations of the Act is not a priority for United States Attorneys Offices and that significant prosecutorial resources have not been devoted to prosecuting such offenses. However, allowing private litigants to bring civil actions for violations of the Act will help effectuate the purposes of the Act and provide remedies to those injured by animal rights terrorists. Without a private right of action - unless greater prosecutorial resources are brought to bear on animal rights terrorism - the Act will remain largely ineffective. Even if there is an increase in prosecutorial resources, establishing a private right of action would substantially assist in fighting animal terrorism. Many of the victims of these terrorists have the resources to seek judicial remedies, but need an effective vehicle for obtaining such relief.

We therefore recommend that Congress amend the Act to provide an express private right of action, including injunctive relief. This is necessary because federal courts have already held that no private right of action exists under the Act. See *Gabor v. Frazer*, 1994 WL 669875, *2 (N.D. Cal. 1994) *aff'd* 78 F.3d 593 (9th Cir. 1996); *Leathem v. United States*, 122 F.3d 1072 (9th Cir. 1997) (unpublished opinion). A federal civil cause of action will allow injured parties to bring their claims in federal court, which is particularly appropriate because most of the animal rights terrorism appears to be committed by nationwide networks and groups. At present, companies who are targeted in different states (such as Chiron) must bring multiple actions in state courts to get effective relief. A federal cause of action will allow injured companies to gain quicker and more efficient relief. In addition, a mechanism for obtaining speedy injunctive relief against animal rights groups and extremists violating the Act would significantly aid companies' efforts to stop animal rights terrorism.

VIII. THE HOBBS ACT

Another legislative solution would be to amend the Hobbs Act, 18 U.S.C. § 1951(a), in response to a recent Supreme Court decision that limited its applicability to threatening or coercive conduct designed to obtain property. The Hobbs Act provides, in pertinent part: "Whoever in any way or degree obstructs, delays, or affects commerce . . . by robbery or extortion or attempts or conspires to do, or commits or threatens physical violence to any person or property in furtherance of a plan or purpose" in violation of the section shall be fined and imprisoned for not more than twenty years. Extortion is defined, in relevant part, as "the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear."

In *Scheidler v. National Organization For Women*, 537 U.S. 393 (2003), the National Organization for Women successfully sued anti-abortionist activists under the Racketeer Influenced and Corrupt Organizations Act (RICO) for using threats and coercion to stop women from obtaining abortions. The RICO violation was predicated on the theory that the defendants had violated the Hobbs Act by committing extortion against the clinics. The Supreme Court held that, to be guilty of extortion under the Hobbs Act, it is not enough for defendants to use threats to deprive a victim of property rights. The Court held that the defendants must also intend to obtain those property rights for themselves:

There is no dispute in these cases that petitioners interfered with, disrupted, and in some instances completely deprived respondents of their ability to exercise their property rights. Likewise, petitioners' counsel readily acknowledged at oral argument that aspects of his clients' conduct were criminal. But even when their acts of interference and disruption achieved their ultimate goal of "shutting down" a clinic that performed abortions, such acts did not constitute extortion because petitioners did not "obtain" respondents' property. Petitioners may have deprived or sought to deprive respondents of their alleged property right of exclusive control of their business assets, but they did not acquire any such property.

537 U.S. at 404-05. The Supreme Court distinguished the crime of extortion from the crime of coercion, which is the use of threats or violence to "compel another person to do or to abstain from doing an act which such other person has a legal right to do or to abstain from doing," but does not require an attempt to obtain property. *Id.* at 406 & n.10. The Hobbs Act would be an appropriate law enforcement vehicle to prosecute violent protesters, such as SHAC, who seek to use threats or violence to force a company to stop doing business in a manner that conflicts with the protestors' political goals. For the Hobbs Act to be effective, however, Congress should amend the statute to eliminate the requirement that defendants need to seek to obtain property for themselves, as opposed to intend to deprive another of property rights. An advantage of such an amendment to the Hobbs Act is that it would apply to

anyone who seeks to accomplish a political agenda through violence, threats or coercion without being limited to a particular issue such as animal rights. Thus, Congress would not need to enact a new statute for each cause that extremists seek to advance through such illegal means.

ADDENDUM I

CHIRON'S ANIMAL CARE AND USE PROGRAM IS CRITICAL TO DRUG DEVELOPMENT AND OPERATES AT THE HIGHEST STANDARDS

Chiron, like every other pharmaceutical company, must ensure safety prior to use in humans. Regulatory authorities in the United States, Europe and Japan mandate research on animals to ensure the protection of human subjects enrolled in clinical trials. Because the physiology, anatomy, biochemistry and disease of animals are similar to that of humans, animal tests supply pharmaceutical companies with sound and valuable scientific data. The result of testing is a crucial component evaluated by regulatory authorities in deciding whether a new drug should be approved for treating patients.

Chiron is committed to the humane care and use of laboratory animals in research. Our animal care and use program in the United States is accredited by the American Association for the Accreditation of Laboratory Animal Care (AAALAC) and monitored by the Office of Laboratory Animal Welfare, Department of Health and Human Services. Outside of the United States, Chiron Corporation adheres to similarly strict standards, including country-specific laws and policies.

The animal studies that the company is required to conduct are subject to rigorous peer review, as well as close review by national authorities. The company's Animal Care and Use Committee, which includes community representatives not employed by Chiron and independent veterinary doctors, oversees all work done internally and reviews all work done by outside contractors to ensure that it will meet the company's strict standards.

Chiron is committed to the ethical principles of "Reduce, Refine and Replace." This means that testing methods are continuously improved in order to reduce the number of animals required for testing, to refine the test procedures to minimize stress and to replace animal testing with alternative methods. The company encourages the use of alternatives to animal testing, including biochemical assays and cell culture methods, whenever possible.

Addendum II: SHAC's Roots In The United Kingdom And European Union

Stop Huntingdon Animal Cruelty (SHAC) is an animal rights organization that was formed in the UK in 1999 by Greg Avery and Heather James. SHAC's express goal was to shut down Huntingdon Life Sciences (HLS), a biomedical company that performed animal testing in labs in the UK and the U.S. SHAC contended that HLS engages in animal cruelty in its testing. SHAC's strategy was to bankrupt HLS by driving up its cost of doing business and scaring away companies that provide financial and other services to HLS.

SHAC used increasingly violent tactics against HLS and its employees. SHAC published employee names and addresses on its website. Employees received death threats and packages filled with feces, dead rodents and razor blades. Employees' homes and cars were vandalized and spray-painted. Eleven employees' cars were firebombed. HLS managing director, Brian Cass, was bludgeoned outside his home with axe handles. Another senior manager was pepper-sprayed and beaten outside his home.

SHAC also targeted banks and financial institutions that supported HLS. These are so called "tertiary targets". These companies and their employees were also subject to death threats, bomb threats, vandalism, office occupations, and harassment. One by one, British financial institutions pulled their support from HLS, citing their inability to guarantee the safety of their employees. HLS could not persuade a single British commercial bank to handle its business and had to receive its financial services through the Bank of England (equivalent to the Federal Reserve). Since then, SHAC has successfully frightened off numerous suppliers to HLS, including security firms.

SHAC affiliates have been organized in other countries where HLS or supporting companies have a presence, including Germany, Switzerland, Italy, the Czech Republic, Ireland, Portugal, Sweden, New Zealand, Australia, and Canada. Extremists in these countries have also carried out violent activities against targeted companies, including death and bomb threats, vandalism, and fire bombings.

SHAC's Evolving Presence In The United States

In 2000, SHAC USA was formed after HLS turned to the American investment firm, Stephens Inc., for financial support.

One of the individuals instrumental in organizing SHAC USA was Kevin Kjonaas (aka Kevin Jonas), who currently acts as its president. Kjonaas previously acted as a spokesperson for another violent animal rights group, the Animal Liberation Front (ALF), and participated in SHAC UK. (In fact, when three of SHAC UK's key leaders spent 6 months in prison between November 2001 and May 2002, Kjonaas relocated to England to manage SHAC UK's affairs). SHAC USA targeted many of the same companies and employed many of the same tactics used by SHAC UK. In addition to HLS and Stephens Inc., companies such as Chiron, Marsh, Yamanouchi, and Sumitomo have been targeted on both sides of the Atlantic. Tactics used against companies and employees in the U.S. have included death threats, bomb threats, office occupations, bombings, vandalism, and harassment.

SHAC's Organizational Structure In The United States

SHAC USA has been incorporated in Delaware. Although Kevin Kjonaas has been designated its president, SHAC USA appears to be organized very informally. It has not disclosed any other named officers or employees. This informal organization appears to be an intentional strategy by SHAC USA to make it difficult to impose criminal or civil liability against it or its officers.

SHAC USA has not disclosed any location as its office or headquarters. SHAC USA rents a P.O. Box in Philadelphia, PA. In late-April Chiron was informed that SHAC USA was in the process of relocating its headquarters to California after managing its operations out of the east coast for four years.

SHAC USA operates at least three websites (www.shacamerica.net, www.hlscustomers.com, and www.insidehls.com), publishes a newsletter, and operates an email distribution list that sends "action alerts" and updates to subscribers. In fact, the Internet has become a core tool in communication and information dissemination for SHAC USA's members. From its main website, SHAC USA also maintains a calendar that lists various actions against targeted companies.

SHAC USA claims not to charge membership fees and claims only to have "volunteers." SHAC USA solicits charitable donations through its website, newsletters, and at various animal rights events.

In sworn deposition testimony, SHAC USA's president, Kevin Kjonaas, has refused to answer questions concerning who finances SHAC USA, what SHAC USA does with its money, who operates the SHAC USA website, who communicates with the purported "volunteers" of SHAC USA, what the contents of those communications are, or other questions that would shed light on SHAC USA's internal organization. He has declined to answer these questions based on this Fifth Amendment privilege against self-incrimination.

This secrecy appears intentionally designed to shield the identities of individual SHAC USA "volunteers" carrying out illegal activities and to attempt to insulate SHAC USA leaders from the illegal acts of its members. For example, the SHAC USA website encourages its members always to use email encryption so as to shield communications from law enforcement and to avoid incriminating one another. Likewise, SHAC USA instructs its members never to reveal any information when being interrogated by law enforcement or prosecutors.

SHAC USA's Previous Targets and Methods In The United States

After its formation, SHAC USA began targeting HLS employees in the U.S. SHAC USA also targeted employees of other companies, tertiary targets, that SHAC USA believed supported HLS, including Marsh USA (an insurer of HLS) and Stephens Inc (an investor in HLS). SHAC USA even targeted so-called "tertiary" targets such as Bank of America, which handled Stephens Inc.'s mutual funds program. Other targets have included Chiron, Yamanouchi, Sumitomo, E*Trade, Legacy Trading, Deloitte & Touche, Forest Labs, Abbott Labs, Novartis, and numerous other companies with direct or indirect ties to HLS.

SHAC USA used tactics similar to those employed by SHAC UK. SHAC USA would publish on its website and in its newsletters the names, addresses, phone numbers, and other personal information of employees of the targeted companies. These employees received harassing phone calls, had their homes and property vandalized, and received death threats. The companies themselves are inundated with phone calls, faxes, and emails from extremists trying to disrupt their business. On several occasions, groups of extremists have staged "office occupations" in which they illegally enter offices, causing disruption and physical damage, and attempt to obtain confidential information about companies and their employees. Chiron Corporation and its employees have been on the receiving end of all of these tactics.

As the SHAC USA website goes on to explain, HLS is a strategic target in its long-term campaign to end animal testing. As envisioned by SHAC USA, shutting down HLS is intended to affect the entire animal testing industry at the same time it helps build a long-term campaign, without concern as to the impact of this effort on drug development:

Closing HLS will save animals in both the short term and the long term. . . . HLS's contracts are inexpensive, and hence it is used by many start-up biotech companies that cannot afford to do their own testing or open their own animal testing facilities. Closing it will make animal testing more costly, to the point where many companies will have to suspend much of their animal testing HLS fills a significant niche within the vivisection industry as they specialize in pre-clinical testing that is not widely available elsewhere. Removing one of the most used, and

specialized, animal testing facilities will have a ripple effect throughout dozens of companies and puts a strain on the entire vivisection industry.

* * *

Both the vivisection and animal rights activists agree: the HLS campaign is an attack on the entire vivisection industry. . . The vivisection industry is enormous, politically connected, and very well-funded. Taking on a select, winnable portion of it allows us to make a huge dent while building a larger, stronger movement to continue in the direction of obliterating animal testing.

An especially chilling tactic used by SHAC USA is the "home visit" or "home demonstration." The extremists show up at the home of a targeted employee, often in the middle of the night, to terrorize the employee. Often dressed in black and wearing ski masks, the extremists shout slogans and obscenities through bullhorns; pound on front doors and windows; litter the neighborhood with leaflets containing the employee's picture and personal information and accusing him of being a "puppy killer" or "animal abuser"; and spray-paint similar slogans on driveways, garage doors, and cars. The extremists repeat these late-night "home visits" numerous times to make the targeted employee's life miserable, until he either quits his job or his employer agrees to SHAC USA's demands to sever all ties with HLS. In the case of Chiron Corporation these nighttime excursions have occurred in the neighborhoods of numerous corporate executives and employees, disrupting not only our employees and their children, but their neighborhoods as well.

As with the campaign conducted in the UK, SHAC USA's campaign in the United States quickly escalated into overt acts of intimidation and violence. HLS employees in New Jersey received emails from threatening physical violence and telling the employees "we know where you live." Employees then began receiving "home visits" like those described above. One employee was relaxing at home with his family when several rocks were hurled through the windows. One former HLS employee who received a "home visit" demanded that the "protesters" leave his property. The "protesters" responded by spitting on him. In 2000, based on these and other unlawful activities, HLS obtained a temporary restraining order and preliminary injunction against SHAC USA and several individuals in New Jersey Superior Court in Somerset County. HLS has also obtained injunctions against SHAC USA in New York and California.

On numerous occasions, SHAC USA's website named Stephen's Group "Abuser of the Week" and stated: "We need to keep the heat on Stephens . . . [Do] ANYTHING and EVERYTHING you can do to make them regret the decision to ever get involved with HLS!!" Persons affiliated with SHAC USA vandalized the homes of Stephen's President and CEO and ran up \$100,000 in fraudulent charges on his credit card. They demonstrated at the firm's offices nationwide, harassing company clients and staging email, phone, and fax interruptions and blitzes. Company employees were threatened and their personal residences were targeted for "home visits." SHAC USA's website published select Stephen's employees' personal home addresses and phone numbers and encouraged supporters to harass and intimidate them. Eventually, Stephen's pulled out its investments from HLS.

Marsh USA, an insurance and reinsurance broker, also became a target of SHAC USA's campaign. SHAC USA labeled Marsh as an "Abuser of the Week" and encouraged its supports to "let Marsh know that we are about to raise the premium on pain." Extremists vandalized Marsh offices and the homes of Marsh employees in Illinois, Texas, Massachusetts, Washington, and California. The SHAC USA website published the names, home addresses, and home phone numbers of Marsh executives and explained how to target their homes. The website also displayed the following threatening announcement: "Marsh employees: we know where you work, we know where you eat, we know where you sleep."

In two coordinated attacks, members of SHAC USA infiltrated Marsh's offices in San Francisco and San Jose, California. They marched through the offices, shouting slogans into megaphones, scattering paper and pamphlets on the floor, and photographing the nameplates on the desks of Marsh employees. The persons invading the San Jose office barricaded themselves in a conference room where they defaced the walls and damaged furniture. These infiltrations continued until police officers arrived and cited the intruders for trespassing, vandalism, and disturbing the peace. The SHAC USA website reported the incidents and stated: "There is nowhere for you to hide, Marsh. . . Marsh be warned: we'll be back - and next time you won't be so lucky." Based on these and other activities, Marsh obtained a temporary restraining order and preliminary injunction against SHAC USA in the Superior Court of Santa Clara County, California. Ultimately, however, Marsh ended its relationship with HLS.